

REMARKS

The Examiner has rejected claims 6-12 under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Particularly, the Examiner has indicated that there is not antecedent basis for "the borrower" in claim 6. Claims 7-12 were rejected since they depend on claim 6, a rejected claim. Applicant has amended claim 6 by changing the term "borrower" to "business", which would effectively be the borrower in this instance. Accordingly, applicant requests that this rejection be withdrawn.

The Examiner has further rejected claims 1-5, 13-15, and 17-26 under 35 U.S.C. 103(a) as being unpatentable over Basemen et al. (U.S. Patent No. 6,671,673), and further in view of Lewis (U.S. Patent No. 6,513,019). For the reasons set out below, the Applicant submits that the Examiner failed to make out the requisite *prima facie* case of obviousness to properly reject claims 1 to 26 under 35 USC 103(a). Accordingly, the Applicant submits that the Examiner's claim rejection should be withdrawn.

Obviousness Generally

In order for a claimed invention to be rejected under 35 USC 103(a) based on a modification to a cited reference, there must be some motivation or suggestion in the prior art for the modification. As the Court of Appeals for the Federal Circuit held in *In re: Gordon* (221 USPQ 1125, 1127 (CAFC. 1984), the mere fact that the prior art could be modified to arrive at the inventor's invention would not have made the invention obvious unless the prior art suggested the desirability of the invention.

As the Applicant will explain, the art cited by the Examiner does not suggest the solution claimed herein, nor provide the requisite evidence of motivation for the solution claimed herein. Accordingly, the invention recited in claims 1 to 26 is not obvious in view of the cited art.

Computerized Method of Managing Information Relating to a Financial Capacity of a Business

Independent claim 1 of the subject patent application recites a method of managing information relating to a financial capacity of a business having electronic records of financial accounts. The method claimed involves the steps of:

(i) providing a software system for monitoring a cash position of the business, said software system including one or more predetermined limits defined by the financial capacity of the business;

(ii) permitting said software system to periodically connect to the electronic records to receive updated transaction information to calculate a current cash position;

(iii) calculating a cash position of the business in respect of a proposed transaction by the business;

(iv) calculating a permitted cash position based on said updated transaction information and said one or more limits defined by said financial capacity;

(v) comparing the calculated cash position of the business after said proposed transaction to said permitted cash position; and

(vi) providing an indication of whether the proposed transaction will cause the business to fall outside of any of said limits defined by said financial capacity.

The Examiner argued that Basemen teaches a method of managing information relating to a financial capacity of a business having electronic records of financial accounts, comprising steps (i), (ii), (iii), (iv) and (v) above. The Examiner also argued that it would have been obvious to combine the teachings of Basemen with the teachings of Lewis so as to provide an indication of whether the proposed transaction will cause the business to fall outside of any limits defined by the financial capacity. The Applicant disagrees with both of the Examiner's conclusions.

Basemen (U.S. Patent No. 6,671,673)

Basemen describes a method for generating a strategic business plan to improve operations and closely monitor various performance measures of an enterprise. In particular, Basemen describes extending supply chain management using financial management considerations and financial management using supply chain considerations (Abstract). Basemen teaches integrating financial management and supply chain management to maximize profitability by quickly responding to changes in market prices, demand, and foreign exchange rates. By placing emphasis on timing of cash inflows, supply chain solutions can improve utilization of financial assets (Col. 6, lines 1-32). Accordingly, Basemen describes integrating supply chain management with financial management for a number of different functions including extended demand planning, inventory management, procurement planning, and production planning (col.

6, lines 33-61). Thus, Basemen teaches using financial information such as tax implications and foreign exchange implications to minimize certain financial risks (col. 7, line 53 - col. 8, line 41). However, contrary to the Examiner's assertion, Basemen neither teaches nor suggests calculating or monitoring a financial capacity of a business.

As defined in Paragraph 38 of the subject application, the term financial capacity is understood to be the preferred financial state of the business enterprise defined by various business measures. These measures may be set by a capital provider, such as a financial institution or bank, or may be set by the internal controls of the business enterprise itself.

Thus it can be seen that Basemen relates to a method for improving and enhancing a supply chain management system and does not relate to a system and method for managing the financial capacity of a business as defined by the claims of the subject patent application. As such, Basemen cannot be considered analogous art to the subject invention. Further, since Basemen relates specifically to supply chain management, Basemen clearly does not teach the step of monitoring a cash position of the business as indicated above. Rather determining the cash position of the business as defined by the subject invention would not be required by Basemen as such detailed financial information is not required for supply chain management. Therefore, without knowledge of the subject invention, a person of ordinary skill in the art would not be able to implement the method described by Basemen and arrive at elements (i) -(v) of the claimed invention.

Lewis (U.S. Patent No. 6,513,019)

Lewis describes an integrated financial data reporting system for real time data entry, assessment, and report generation (abstract). Specifically, Lewis teaches a system for receiving financial information from a plurality of different sources in varying formats and converting the information into a common format (col. 4, lines 54-67). Further, Lewis teaches alerting users that as a result of a transaction, market change, or customer change, a financial threshold has been breached (co. 5, lines 56-61). However, contrary to the Examiner's assertion, Lewis neither teaches nor suggests indicating when a transaction would cause a business to fall outside of its financial capacity.

No Suggestion or Motivation to Modify Basemen in view of Lewis

A person of ordinary skill in the art would not be able to apply the teachings of Lewis to the teachings of Basemen in order to arrive at the claimed invention as required for an obviousness rejection. As described above, although Lewis teaches providing an indication of whether a proposed transaction will fall outside a predefined limit it does not teach indicating this to a business when the transaction causes it to fall outside of its financial capacity. Therefore, since neither Basemen nor Lewis, nor a combination thereof, teach the solution of claim 1, Applicant submits that the obviousness rejection to this claim be withdrawn.

Further, since claims 2-5, 13-15, and 17-20 depend upon independent claim 1, the foregoing submission applies equally to the invention recited in then claims. Therefore, the Applicant requests that the Examiner's rejection to claims 2-5, 13-15, and 17-20 be withdrawn.

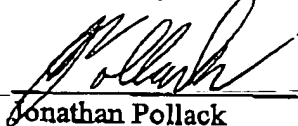
Computerized Method of Managing Information Relating to a Financial Capacity of a Business

Independent claim 21 of the subject patent application recites a system for managing information relating to a financial capacity of a business having electronic records of financial accounts. Independent claim 21 is the apparatus corollary of independent claim 1. Accordingly, the foregoing submissions apply equally to claim 21. Therefore, the Applicant submits that the Examiner has failed to sustain a *prima facie* obvious rejection to the invention claimed in claim 21 of the subject patent application.

Further, since claims 22-26 depend upon independent claim 4, the foregoing submission applies equally to the invention recited in claims 22-26. Therefore, the Applicant requests that the Examiner's rejection to claims 21-26 be withdrawn.

Favourable consideration of the subject patent application is respectfully requested.

Respectfully submitted,



Jonathan Pollack
Registration No. 49,065
416 862 5405

Gowling Lafleur Henderson LLP
Commerce Court West, Suite 4900
Toronto, Ontario
M5L 1J3
TOR_LAW 5800542/2